



## Senate

General Assembly

**File No. 443**

*January Session, 2003*

Substitute Senate Bill No. 960

*Senate, April 17, 2003*

The Committee on Government Administration and Elections reported through SEN. DEFRONZO of the 6th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

### ***AN ACT CONCERNING DEBARMENT REFORM.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 31-53a of the general statutes is repealed and the  
2 following is substituted in lieu thereof (*Effective October 1, 2003*):

3 (a) The State Comptroller or the contracting authority acting  
4 pursuant to section 31-53 is hereby authorized and directed to pay to  
5 mechanics, laborers and [workmen] workers from any accrued  
6 payments withheld under the terms of a contract terminated pursuant  
7 to subsection (b) of said section 31-53 any wages found to be due such  
8 mechanics, laborers and [workmen] workers pursuant to said section  
9 31-53. The Labor Commissioner is further authorized and directed to  
10 distribute a list to all departments of the state and political  
11 subdivisions [thereof] of the state giving the names of persons or firms  
12 whom [he] the Labor Commissioner has found to have disregarded  
13 their obligations under said section 31-53 and section 31-76c to

14 employees and subcontractors on public works projects or to have  
15 been barred from federal government contracts in accordance with the  
16 provisions of the Davis-Bacon Act, 49 Stat. 1011 (1931), 40 USC 276a-2.

17 (b) (1) No contract shall be awarded by the state or any of its  
18 political subdivisions to the persons or firms appearing on [this] the  
19 list distributed by the Labor Commissioner pursuant to subsection (a)  
20 of this section or to any firm, corporation, partnership, or association in  
21 which such persons or firms have an interest until a period of up to  
22 three years, as determined by the Labor Commissioner, has elapsed  
23 from the date of publication of the list containing the names of such  
24 persons or firms.

25 (2) No general contractor that enters into a contract with the state or  
26 any of its agents, or with any political subdivision of the state or any of  
27 its agents, for the construction, remodeling, refinishing, refurbishing,  
28 rehabilitation, alteration or repair of any public works project subject  
29 to the provisions of section 31-53, or for any state highway project that  
30 falls under the provisions of section 31-54, shall award any work under  
31 such contract to the persons or firms appearing on the list distributed  
32 by the Labor Commissioner pursuant to subsection (a) of this section  
33 or to any firm, corporation, partnership or association in which such  
34 persons or firms have an interest until a period of up to three years, as  
35 determined by the Labor Commissioner, has elapsed from the date of  
36 publication of the list containing the names of such persons or firms.

37 (3) Prior to performing any work under a contract for the  
38 construction, remodeling, refinishing, refurbishing, rehabilitation,  
39 alteration or repair of any public works project subject to the  
40 provisions of section 31-53, or for any state highway project that falls  
41 under the provisions of section 31-54, each person, firm, corporation,  
42 partnership or association engaged by a general contractor to perform  
43 such work shall submit a sworn affidavit to the general contractor  
44 attesting that such person, firm, corporation, partnership or association  
45 does not hold an interest of ten per cent or greater in a firm appearing  
46 on the list distributed by the Labor Commissioner pursuant to

47 subsection (a) of this section.

48       (4) Any person or firm that appears on the list distributed by the  
49 Labor Commissioner pursuant to subsection (a) of this section, for a  
50 period of up to three years from the date of publication of such list,  
51 shall be liable to the Labor Department for a civil penalty of one  
52 thousand dollars for each day or part of a day in which such person or  
53 firm performs any work under any contract with the state or any of its  
54 agents, or with any political subdivision of the state or any of its  
55 agents, for the construction, remodeling, refinishing, refurbishing,  
56 rehabilitation, alteration or repair of any public works project subject  
57 to the provisions of section 31-53 or any state highway project that falls  
58 under the provisions of section 31-54. The Attorney General, upon  
59 complaint of the Labor Commissioner, shall institute a civil action to  
60 recover such civil penalty. Any amount recovered shall be deposited in  
61 the General Fund and credited to a separate nonlapsing appropriation  
62 to the Labor Department, for other current expenses, and may be used  
63 by the Labor Department to enforce the provisions of part III of  
64 chapter 557. As used in this subdivision, "person or firm" includes any  
65 firm, corporation, partnership or association in which a person or firm  
66 appearing on the list distributed by the Labor Commissioner pursuant  
67 to subsection (a) of this section holds an interest of ten per cent or  
68 greater.

69       [(b)] (c) If the accrued payments withheld under the terms of a  
70 contract terminated pursuant to subsection (b) of section 31-53 are  
71 insufficient to reimburse all the mechanics, laborers and [workmen]  
72 workers with respect to whom there has been a failure to pay the  
73 wages required pursuant to said section 31-53, such mechanics,  
74 laborers and [workmen] workers shall have the right of action and of  
75 intervention against the contractor and [his] the contractor's sureties  
76 conferred by law upon persons furnishing labor or materials, and in  
77 such proceedings it shall be no defense that such mechanics, laborers  
78 and [workmen] workers accepted or agreed to accept less than the  
79 required wages or that such persons voluntarily made refunds.

This act shall take effect as follows:
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Section 1	<i>October 1, 2003</i>
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**LAB**      *Joint Favorable Subst. C/R*

GAE

**GAE**      *Joint Favorable*

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

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**OFA Fiscal Note****State Impact:**

<b>Agency Affected</b>	<b>Impact</b>
Department of Labor	Potential Revenue
Attorney General	None
Various	Potential Savings

**Municipal Impact:** See below

**Explanation**

It is anticipated that as a result of the bill's provisions, the Department of Labor will require no additional resources. To the extent that a penalty is recovered as a result of the bill's debarment provision, the department for the purpose of enforcement would utilize the funding (as identified in the bill from the restricted nonlapsing account). However, it is anticipated that there will not be a noticeable change in debarment activity. The bill is not expected to have a substantial impact on the workload of the Office of the Attorney General and therefore additional appropriations would not be necessary.

There is a potential savings to the overall state and municipal contract costs to the extent that a subcontractor, whose work on a project may have resulted in avoidable costs, is filtered out.

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**OLR Bill Analysis**

sSB 960

**AN ACT CONCERNING DEBARMENT REFORM****SUMMARY:**

This bill expands the applicability of the state's debarment law, which prohibits state and municipal agencies from awarding construction contracts to firms that have violated the prevailing wage law. It establishes a civil penalty of up to \$1,000 per day for violators.

EFFECTIVE DATE: October 1, 2003

**CONTRACTOR DEBARMENT**

By law, the labor commissioner must maintain a list of contractors and firms who have violated state or federal laws that require them to pay prevailing wages to employees and subcontractors employed on state and municipal public works contracts. The list must include contractors that have an ownership interest (of 10% or more) in any firm on the list. State and municipal agencies are prohibited from awarding contracts to listed firms. The debarment runs for three years from the date the contractor is listed.

The bill bars general contractors that enter into state or municipal public works or highway contracts subject to state prevailing wage from awarding any work to a subcontractor on the list. This prohibition runs for three years, the same period as the prohibition that applies to public agencies.

Before a subcontractor can perform any work on a prevailing wage project, it must submit a sworn affidavit to the general contractor that it does not hold an interest of 10% or more in a firm on the list.

**PENALTY**

The bill imposes a civil penalty of up to \$1,000 per day on any contractor on the list that performs any work on a prevailing wage project. The attorney general, at the request of the labor commissioner, must sue to

recover the civil penalty. The penalties must go to the General Fund as a nonlapsing appropriation to the Labor Department for other current expenses. The department can use the money to enforce the provisions of the prevailing wage laws and other employment regulations.

## **BACKGROUND**

### ***Related Bill***

HB 6463 makes a minor language change to the state prevailing wage law.

## **COMMITTEE ACTION**

Labor and Public Employees Committee

Joint Favorable Substitute Change of Reference

Yea 13      Nay 1

Government Administration and Elections Committee

Joint Favorable Report

Yea 17      Nay 0